

## **2011 DRAFTING REQUEST**

### **Bill**

Received: **03/15/2011**

Received By: **agary**

Wanted: **As time permits**

Companion to LRB:

For: **Jeffrey Mursau (608) 266-3780**

By/Representing: **Tim Gary**

May Contact:

Drafter: **agary**

Subject: **Transportation - motor vehicles**  
**Transportation - traffic laws**

Addl. Drafters:

Extra Copies: **EVM**

Submit via email: **YES**

Requester's email: **Rep.Mursau@legis.wisconsin.gov**

Carbon copy (CC:) to: **aaron.gary@legis.wisconsin.gov**

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### **Pre Topic:**

No specific pre topic given

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### **Topic:**

Vehicle overweight permits and enforcement for 98,000 raw forest products permit

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### **Instructions:**

See attached. DOT issues RS permits to include a provision making them invalid on local roads during the Spring thaw, even though such a provision is not required by statute; draft bill to eliminate DOT's inclusion of such a provision in its RS permits, so that trucks can carry full weight on local roads during Spring thaw unless locals post the road with a lesser weight limit

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### **Drafting History:**

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/?				_____			S&L
/P1	agary 05/02/2011			_____ _____			S&L
/1	agary 10/21/2011	jdyer 10/24/2011	jfrantze 10/24/2011	_____ _____	sbasford 10/24/2011	ggodwin 11/03/2011	

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/P1	agary 05/02/2011 agary						S&L

FE Sent For:

**<END>**

## Gary, Aaron

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**From:** Gary, Tim  
**Sent:** Wednesday, October 19, 2011 12:51 PM  
**To:** Gary, Aaron  
**Subject:** RE: RS permits and thawing roads

Aaron,

It is time to reactivate this bill AND to draft it as an amendment to AB 306 for special session.

## Tim Gary

Wisconsin State Assembly  
Office of **Representative Jeff Mursau**  
36th Assembly District, Research Assistant  
**Committee on Natural Resources**, Clerk  
**Committee on Forestry**, Clerk  
PO Box 8952  
Madison, WI 53708-8953  
(608) 266-3780  
[Sign Up for E-Updates](#)

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**From:** Gary, Aaron  
**Sent:** Monday, May 02, 2011 3:10 PM  
**To:** Gary, Tim  
**Subject:** RE: RS permits and thawing roads

Hi Tim,

I started this draft before the meeting with DOT at the Capitol. (It was entered as LRB-1667.) I understand that DOT has been trying to work through these issues with the interested legislators. I will put this draft into a "hold" status unless/until I hear differently from you.

Thanks. Aaron

Aaron R. Gary  
*Attorney, Legislative Reference Bureau*  
608.261.6926 (voice)  
608.264.6948 (fax)  
[aaron.gary@legis.state.wi.us](mailto:aaron.gary@legis.state.wi.us)

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**From:** Gary, Aaron  
**Sent:** Thursday, March 17, 2011 8:39 AM  
**To:** Gary, Tim  
**Subject:** RE: RS permits and thawing roads

Tim,

I just received a telephone call from Dave Vieth at DOT that shed some light on this situation. While I can read the statutes I don't actually see the RS permits that DOT is issuing. My reading of the statutes below is correct but I was not aware that DOT, when it issues the RS permits, makes a term of the permit that they are not valid during the spring thaw on local roads (whether posted or not). DOT has statutory authority to impose terms and

10/21/2011

conditions on a permit. See s. 348.25 (3). So apparently what is going on is that the permit itself has an exception so that it is not valid on local roads during the spring thaw. Prior to 2009 Act 222, the permit terms also made them invalid on STHs during the spring thaw but the act last session now requires the permit to remain valid on STHs during the spring thaw. I understand that you are now talking to DOT and trying to find a resolution. I'll wait to hear further from you, but one option is to simply remove all of what was AA2 to AB-778 last session or I can try to fashion something (as you initially suggested) that affects unposted roads but not posted roads.

Aaron

Aaron R. Gary  
 Attorney, Legislative Reference Bureau  
 608.261.6926 (voice)  
 608.264.6948 (fax)  
 aaron.gary@legis.state.wi.us

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**From:** Gary, Aaron  
**Sent:** Wednesday, March 16, 2011 11:15 AM  
**To:** Gary, Tim  
**Subject:** RS permits and thawing roads

Tim,

Under current law, the RS permit allows the operation of a qualifying vehicle (6+ axles hauling raw forest products) at up to 98,000 pounds, but not on interstate highways or certain STHs identified by DOT rule. The permit must allow these 98,000 lb. vehicles on state trunk highways and connecting highways despite any lower weight limit on these highways posted in connection with the thawing of frozen highways. This thawing highway provision is an exception to the general rule that the permit otherwise does not allow 98,000 lb. vehicles on highways or bridges with lower posted weight limits. See 348.27 (9m). (For purposes of these provisions, a "connecting highway" is a segment of a STH that is located within a municipality and for which DOT has given responsibility for maintenance to the municipality. See ss. 340.01 (9) and 86.32.)

The RS permit allows operation of vehicles at 98,000 lbs. on all highways, except for those described above. Therefore, the RS permit generally authorizes operation at 98,000 lbs. on state trunk highways and local roads. The operator of a vehicle operating under an RS permit at 98,000 lbs. or less should not be cited for a weight violation on a local road unless one of the provisions above applies that specifically states the RS permit is not valid on that road.

In connection with thawing highways, DOT or a local government can lower the otherwise applicable weight limit for the highway. Under s. 349.16 (1) (a), the highway authority may impose lower weight limits due to weakness of the roadbed as a result of climatic conditions. Under s. 349.16 (2), the lower weight limits must be posted ("to give reasonable notice that a special weight limitation is in effect and the nature of that limitation"). In other words, in order to impose a lower weight limit on a highway due to the spring thaw, both DOT and a local government must post the lower weight limit or it is not lawful and valid. See also s. 348.17 (1) (a violation occurs only "when signs have been erected ... giving notice of such weight limitations").

In summary, a person operating under an RS permit may operate on a local road (county or municipality) at 98,000 pounds unless the local road is posted with a lesser weight limit.

I have carefully reviewed the statutes and DOT's web site related to RS permits and I am confident that this summary is an accurate description of current law.

Aaron

10/21/2011





State of Wisconsin  
2011 - 2012 LEGISLATURE

in  
10/21



LRB-1667/1

ARG:.....

JLD

2011 BILL

Wanted  
10/25

X

Gen

1

AN ACT ...; relating to: overweight permits for vehicles transporting raw forest

2

products.

***Analysis by the Legislative Reference Bureau***

Under current law, with limited exceptions, no person may operate on a highway any vehicle or vehicle combination that exceeds certain statutory weight limits unless the person obtains a permit issued by the Department of Transportation (DOT) or a local highway authority. In issuing an overweight permit, DOT may impose reasonable conditions and restrictions on the permittee as DOT deems necessary for the safety of travel and protection of the highways.

Under current law, DOT may issue annual or consecutive month permits for the transportation of raw forest products in vehicle combinations having a gross weight not exceeding 98,000 pounds if the vehicle combination has six or more axles and meets other criteria (RS permit). "Raw forest products" includes logs, poles, cordwood, wood chips, sawdust, and pulpwood. A vehicle combination operated under an RS permit is subject to certain operating restrictions, including that it cannot be operated on an interstate highway or any highway or bridge with a posted weight limit that is less than the vehicle combination's gross weight, except as described immediately below.

Also under current law, DOT or a local highway authority may impose special weight limits on highways that, because of weakness of the roadbed due to deterioration or climatic conditions or other special or temporary conditions, would likely be seriously damaged or destroyed in the absence of the special limits. If special weight limits are imposed, the limits must be posted by highway signs along

**BILL**

the affected highways. The special weight limits<sup>✓</sup> apply regardless of whether a vehicle is being operated under an overweight permit unless the permit expressly authorizes the special weight limits to be exceeded. When DOT issues an RS permit, the RS permit must expressly authorize the vehicle combination to exceed, on state trunk highways and state trunk highway routes designated as connecting highways, any special weight limits posted in connection with the thawing of frozen highways.

Under this bill, an RS permit<sup>✓</sup> issued by DOT may not contain any condition or limitation imposed by DOT in connection with the thawing of frozen highways that are not state trunk highways or connecting highways, except that the operation of the vehicle combination under the RS permit<sup>✓</sup> is subject to posted weight limits on these local highways.

For further information see the *state and local*<sup>✓</sup> fiscal estimate, which will be printed as an appendix to this bill.

*The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:*

1 → INSERT A<sup>✓</sup>

2 (INSERT HERE)<sup>21</sup>

3

4 **SECTION 1. Initial applicability.**

5 (1) This act first applies to permits issued on the effective date of this

6 subsection.<sup>✓</sup>

7 **SECTION 2. Effective date.**

8 (1) This act takes effect on the first day of the 3rd<sup>✓</sup> month beginning after

9 publication.

10 (END)



State of Wisconsin  
2011 - 2012 LEGISLATURE



LRBa1679/1  
ARG:kjf:jf

ASSEMBLY AMENDMENT ,  
TO 2011 ASSEMBLY BILL 306

At the locations indicated, amend the bill as follows:

1. Page 1, line 5: after "products" insert "or raw forest products".

2. Page 3, line 25: after that line insert:

SECTION 6m. 348.27 (9m) (c) of the statutes is amended to read:

348.27 (9m) (c) A permit issued under par. (a) 4. shall expressly authorize the vehicle combination to exceed, on state trunk highways and connecting highways, any special weight limitation imposed under ss. 348.17 (1) and 349.16 (1) (a) and (2) in connection with the thawing of frozen highways and to be operated at the full weight allowable under par. (a) on state trunk highways and connecting highways. Notwithstanding s. 348.25 (3), a permit issued under par. (a) 4. may not contain any condition or limitation imposed by the department in connection with the thawing of frozen highways that are not state trunk highways or connecting highways, except

Insert A



*insert A  
cont'd*

1 that the operation of the vehicle combination is subject to posted weight limitations  
2 on these local highways.  
3

~~VEND~~  
(end insert A)

**Basford, Sarah**

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**From:** Gary, Tim

**Sent:** Thursday, November 03, 2011 1:18 PM

**To:** LRB.Legal

**Subject:** Draft Review: LRB 11-1667/1 Topic: Vehicle overweight permits and enforcement for 98,000 raw forest products permit

Please Jacket LRB 11-1667/1 for the ASSEMBLY.

11/3/2011